

**HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

**CRL.P.No.143 OF 2017**

**ORDER:**

This criminal petition is filed under Section 482 of Cr.P.C to quash the proceedings in Crime No.409 of 2016 of Gajwel Police Station, Siddipet District, registered for the offences punishable under Sections 498-A and 494 IPC.

The 2<sup>nd</sup> respondent/*de facto* complainant lodged a complaint against the petitioners and others on 20.12.2016 making allegations that her husband got addicted to vices, he used to beat her and sent her back to India from Saudi Arabia. Thereafter, when her husband returned to India along with his family members viz. her husband, mother-in-law – Tahera Begum, brother-in-law – Ibrahim @ Zakir and her co-sisters – Saidabhanu and Sajida Begum demanded her to bring Rs.1,00,000/- dowry from her mother and they had subjected her to cruelty both mentally and physically and driven her out from the house. Though a panchayat was held, no purpose was served. On the other hand, they also threatened her saying that they will kill her parents and pour acid on her sister etc.

The present petition is filed on various grounds mainly contending that the incident took place at Saudi Arabia, and not in India, and that the petitioners are the residents of different places and produced photostat copy of Aadhaar card

in proof of their residence and all these documents at best shows that they are residents of different areas.

The first and foremost ground raised before this Court is that no incident took place at Ghazi Banda where her father is residing, and on that ground the Court cannot quash the proceedings for the reason that if the police found that it has no jurisdiction over the area where the offence took place, they have to follow the procedure and transfer the matter to the concerned police station having jurisdiction to investigate and enquire into the matter.

The other contention is that the allegations made in the complaint would not attract the offence punishable under Sections 494 and 498-A of IPC. The petitioners and respondent No.2 are Muslims by religion and plurality of marriages are permitted in their religion. Therefore, the allegations made in the complaint would not attract the offence punishable under Section 494 IPC. But the allegations referred to above on its face value constitute offence punishable under Section 498-A IPC.

The other contention is that petitioner No.2/A2 - Tahera Begum @ Tahera Begum is an old woman, suffering from old age ailments and it is difficult for her to move to the place where the matter is being tried on account of her old age. Therefore, she requested to quash the proceedings. But, old age is not a ground to quash the proceedings, when the

allegations made in the complaint on its face value constitute an offence punishable under Section 498-A IPC. The power under Section 482 Cr.P.C can be exercised sparingly in exceptional circumstances only, to quash the proceedings in order to give effect to the orders passed under the Code to prevent abuse of process of the Court and to meet the ends of justice. As per Guideline No.1 of **State of Haryana v. Bhajan Lal**<sup>1</sup> where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not *prima facie* constitute any offence or make out a case against the accused, the Court cannot quash the proceedings exercising power under Section 482 Cr.P.C. Here the allegations made in the complaint would attract *prima facie* offence punishable under Section 498-A IPC, the inherent power under Section 482 Cr.P.C should not be exercised by the Court to stifle legitimate prosecution and the High Court being the highest Court of the State should normally refrain from giving a *prima facie* decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. While exercising jurisdiction under Section 482 Cr.P.C., it is not permissible for the Court to act as if it was a trial Court. Even when charge is

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<sup>1</sup> 1992 Supp. (1) SCC 335

framed, at that stage, the Court has only *prima facie* to be satisfied about existence of any sufficient ground to proceed against the accused for the offence and for such limited purpose only, the Court has to evaluate material and documents on record, but it cannot appreciate the evidence vide **State of Orissa and another v. Saroj Kumar Sahoo**<sup>2</sup>. Therefore, in the present case as the investigation is at foetus stage and the facts are incomplete and hazy, thereby lack of details in the complaint, the proceedings cannot be quashed. Hence, I find no ground to quash the proceedings. However, investigating agency to follow the procedure under Section 41-A of Cr.P.C. and guidelines issued by the Supreme Court in **Arnesh Kumar v State of Bihar**<sup>3</sup> and consider the age of petitioner No.1/A2-Tahera Begum and her sufferance from different ailments.

With the above observations, the Criminal Petition is dismissed.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

**M.SATYANARAYANA MURTHY,J**

06.01.2017  
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<sup>2</sup> 2005(13)SCC 540

<sup>3</sup> AIR 2014 SC 2756